THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.26146 OF 2005

Dt.7.12.2005

Between:

Allu Gajjim Naidu and another … Petitioners

And

Koduru Appa Rao and 7 others … Respondents

ORDER:

Heard the learned counsel for the petitioners as well as the learned Government Pleader for Endowments.

The petitioners submit that their fathers are natural brothers and they were absolute owners and possessors to an extent of Ac.11.48 cents dry land bearing patta Nos.25 and 26 situated in revised survey Nos.402/2 and 407 situated at Jaithavaram Village, Cheedikada Mandal, Visakhapatnam District. The said property is a “ryoti” land situated in Jaithavaram Village within the ambit of erstwhile Madgula Estate, which was abolished under the provisions of Andhra Pradesh (A.A) Estates (Abolition and Conversion into Rythwari) Act, 1948. The petitioners and their ancestors are entitled to ryotwari patta under section 11(a) of the said Act and a rough patta was granted in respect of the said property in their favour. While the matters stood thus, the first respondent claiming that he is the Managing Trustee of

the Deity Sri Sreeramulu varu and issued a registered notice on 27.2.2001 with certain allegations for which a reply was given on 2.9.2001. Thereafter, in the first week of August 2005, respondents 1 to 5 forcibly trespassing into the land and spoiled the crops raised by the petitioners and their family members. Therefore, the petitioners lodged a complaint and filed a suit in O.S.No.36 of 2005 on the file of the Senior Civil Judged, Chodavaram for declaration of title and also for damages for the loss sustained by them and ad interim injunction was also granted in I.A.No.173 of 2005 on 9.9.2005. While so, the 6th respondent issued a notice in Rc.No.1/2005 dated 7.11.2005 under Rule 5(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Rules 2003 for handing over the possession of the said lands. Questioning the said notice, this writ petition has been filed.

The learned Government Pleader for Endowments submits that admittedly either the Endowments Department or the Trustee is not a party to the civil suit. However, no suit or legal proceeding in respect of administration of management of an institution or endowment or any other matters of dispute for determining or deciding for which provision is made under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987 (hereinafter referred to as 'the Act') shall be instituted in any Court of Law except under and in conformity with the provisions of the Act. In view of the said specific bar under Section 151 of the Act, the said injunction order does not bind on respondents 6 to 8. It is stated that the petitioners have to file an application before the Deputy Commissioner for settlement of disputes under Section 87 of the Act. In support of his contentions, he has relied on the judgment of the Division Bench of this Court in W.A.No.1981 of 2005 dated 18.10.2005 wherein this Court held that there is bar to institute civil suit under Section 151 of the Act and accordingly directed the writ petitioner to move an application before the Deputy Commissioner under Section 87 of the Act.

Following the same, this writ petition is disposed of directing the

petitioner to file an application in terms of Section 87 of the Act before the Deputy Commissioner within a period of two weeks. For a period of two weeks from today, status quo obtaining as on today shall be maintained by the parties. On filing such an application, the learned Deputy Commissioner may pass appropriate orders in accordance with law.

The writ petition is disposed of accordingly. No costs.

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(V.ESWARAIAH, J.)

7.12.2005

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